

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

FRED L. PLUMP,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.
	)	2:07-cv-01014-MEF-CSC
BOB RILEY,	)	
Governor,	)	
	)	
Defendant.	)	

**SECOND NOTICE OF APPEAL TO THE  
SUPREME COURT OF THE UNITED STATES**

The defendant Bob Riley, in his official capacity as Governor of the State of Alabama, hereby appeals to the Supreme Court of the United States from the *Judgment* entered in this case on January 22, 2008, (doc. 29) and the *Memorandum Opinion* of the same date (doc. 28), as amended by this Court's *Order* of January 25, 2008, (doc. 32) and reduced to an *Amended Judgment* (doc. 33) on the same date. This appeal is intended to be fully inclusive of any and all matters currently, finally resolved by the district court and thereby supporting an appeal.

Governor Riley filed a notice of appeal on March 22, 2008. That notice is adopted and incorporated herein by reference. This second notice is filed in light of certain jurisdictional issues that will be addressed in Governor Riley's jurisdictional statement to the United States Supreme Court, which will be submitted May 21, 2008.

The district court's amended judgment provided that Governor Riley's appointment of General George F. Bowman to the Jefferson County Commission would be vacated, "without further order of th[e] Court," if not precleared within 90 days of

January 22, 2008. *Amended Judgment* (doc. 33). (Governor Riley submitted a request for preclearance to the United States Department of Justice, which was delivered on March 20, 2008. The submission is pending.) The original notice of appeal was filed within 60 days of that judgment, although the contingencies that would trigger the court's remedy order had not come about.

On April 16, 2008, the district court denied Governor Riley's motion to stay, but stayed its judgment "until the earlier of sixty days from the date of the preclearance submission, or the date of the written response by the Attorney General to [the] preclearance submission." *Order* (doc. 45). On April 18, 2008, the United States Supreme Court entered an order staying the judgment of the district court.

This Second Notice of Appeal is filed within 60 days of April 21, 2008 – the date that the appointment would have been vacated by operation of the Amended Judgment, if not stayed. This Second Notice of Appeal is also filed within 60 days of May 19, 2008, the latest date on which the appointment would have been vacated pursuant to the district court's judgment and stay order, if the United States Supreme Court had not entered a stay.

This appeal is taken pursuant to 42 U.S.C. § 1973c(a) ("Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal shall lie to the Supreme Court."); 28 U.S.C. § 1253 ("Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges.");

and, 28 U.S.C. § 2101(b) (“Any other direct appeal to the Supreme Court which is authorized by law, from a decision of a district court in any civil action, suit or proceeding, shall be taken within thirty days from the judgment, order or decree, appealed from, if interlocutory, and within sixty days if final.”).

Of Counsel:

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**Respectfully submitted,**

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**Counsel for Governor Riley**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 20<sup>th</sup> day of May, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel: Edward Still, Edward Still Law Firm LLC ([docket@votelaw.com](mailto:docket@votelaw.com)), and James U. Blacksher ([jblacksher@ns.sympatico.ca](mailto:jblacksher@ns.sympatico.ca)).

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